

## Calendar No. 373

107TH CONGRESS  
2D SESSION**S. 2517**

To authorize appropriations for fiscal year 2003 for defense activities of the Department of Energy, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 15 (legislative day, MAY 9), 2002

Mr. LEVIN, from the Committee on Armed Services, reported the following original bill; which was read twice and placed on the calendar

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**A BILL**

To authorize appropriations for fiscal year 2003 for defense activities of the Department of Energy, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Department of Energy  
5 National Security Act for Fiscal Year 2003”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Congressional defense committees defined.

## **TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS**

### **Subtitle A—National Security Programs Authorizations**

- Sec. 3101. National Nuclear Security Administration.
- Sec. 3102. Defense environmental management.
- Sec. 3103. Other defense activities.
- Sec. 3104. Defense environmental management privatization.
- Sec. 3105. Defense nuclear waste disposal.

### **Subtitle B—Recurring General Provisions**

- Sec. 3121. Reprogramming.
- Sec. 3122. Limits on minor construction projects.
- Sec. 3123. Limits on construction projects.
- Sec. 3124. Fund transfer authority.
- Sec. 3125. Authority for conceptual and construction design.
- Sec. 3126. Authority for emergency planning, design, and construction activities.
- Sec. 3127. Funds available for all national security programs of the Department of Energy.
- Sec. 3128. Availability of funds.
- Sec. 3129. Transfer of defense environmental management funds.
- Sec. 3130. Transfer of weapons activities funds.

### **Subtitle C—Program Authorizations, Restrictions, and Limitations**

- Sec. 3131. Availability of funds for environmental management cleanup reform.
- Sec. 3132. Robust Nuclear Earth Penetrator.
- Sec. 3133. Database to track notification and resolution phases of Significant Finding Investigations.
- Sec. 3134. Requirements for specific request for new or modified nuclear weapons.
- Sec. 3135. Requirement for authorization by law for funds obligated or expended for Department of Energy national security activities.
- Sec. 3136. Limitation on availability of funds for program to eliminate weapons grade plutonium production in Russia.

### **Subtitle D—Proliferation Matters**

- Sec. 3151. Administration of program to eliminate weapons grade plutonium production in Russia.
- Sec. 3152. Security of nuclear materials and facilities worldwide.
- Sec. 3153. Repeal of requirement for reports on obligation of funds for programs on fissile materials in Russia.
- Sec. 3154. Expansion of annual reports on status of nuclear materials protection, control, and accounting programs.

### **Subtitle E—Other Matters**

- Sec. 3161. Indemnification of Department of Energy contractors.
- Sec. 3162. Worker health and safety rules for Department of Energy facilities.
- Sec. 3163. One-year extension of authority of Department of Energy to pay voluntary separation incentive payments.

Sec. 3164. Support for public education in the vicinity of Los Alamos National Laboratory, New Mexico.

**Subtitle F—Disposition of Weapons-Usable Plutonium at Savannah River, South Carolina**

Sec. 3181. Findings.

Sec. 3182. Disposition of weapons-usable plutonium at Savannah River Site.

Sec. 3183. Study of facilities for storage of plutonium and plutonium materials at Savannah River Site.

**TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

Sec. 3201. Authorization.

Sec. 3202. Authorization of appropriations for the formerly used sites remedial action program of the Corps of Engineers.

**1 SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.**

2 For purposes of this Act, the term “congressional de-  
3 fense committees” means—

4 (1) the Committee on Armed Services and the  
5 Committee on Appropriations of the Senate; and

6 (2) the Committee on Armed Services and the  
7 Committee on Appropriations of the House of Rep-  
8 resentatives.

9 **TITLE XXXI—DEPARTMENT OF**  
10 **ENERGY NATIONAL SECURITY**  
11 **PROGRAMS**

12 **Subtitle A—National Security**  
13 **Programs Authorizations**

14 **SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRA-**  
15 **TION.**

16 Funds are hereby authorized to be appropriated to  
17 the Department of Energy for fiscal year 2003 for the  
18 activities of the National Nuclear Security Administration

1 in carrying out programs necessary for national security  
2 in the amount of \$8,160,043,000, to be allocated as fol-  
3 lows:

4 (1) WEAPONS ACTIVITIES.—For weapons activi-  
5 ties, \$5,988,188,000, to be allocated as follows:

6 (A) For directed stockpile work,  
7 \$1,218,967,000.

8 (B) For campaigns, \$2,090,528,000, to be  
9 allocated as follows:

10 (i) For operation and maintenance,  
11 \$1,740,983,000.

12 (ii) For construction, \$349,545,000,  
13 to be allocated as follows:

14 Project 01–D–101, distributed  
15 information systems laboratory,  
16 Sandia National Laboratories, Liver-  
17 more, California, \$13,305,000.

18 Project 00–D–103, terascale sim-  
19 ulation facility, Lawrence Livermore  
20 National Laboratory, Livermore, Cali-  
21 fornia, \$35,030,000.

22 Project 00–D–107, joint com-  
23 putational engineering laboratory,  
24 Sandia National Laboratories, Albu-  
25 querque, New Mexico, \$7,000,000.

1 Project 98–D–125, tritium ex-  
2 traction facility, Savannah River  
3 Plant, Aiken, South Carolina,  
4 \$70,165,000.

5 Project 96–D–111, national igni-  
6 tion facility (NIF), Lawrence Liver-  
7 more National Laboratory, Livermore,  
8 California, \$224,045,000.

9 (C) For readiness in technical base and fa-  
10 cilities, \$1,735,129,000, to be allocated as fol-  
11 lows:

12 (i) For operation and maintenance,  
13 \$1,464,783,000.

14 (ii) For plant projects (including  
15 maintenance, restoration, planning, con-  
16 struction, acquisition, modification of fa-  
17 cilities, and the continuation of projects  
18 authorized in prior years, and land acquisi-  
19 tion related thereto), \$270,346,000, to be  
20 allocated as follows:

21 Project 03–D–101, Sandia un-  
22 derground reactor facility (SURF),  
23 Sandia National Laboratory, Liver-  
24 more, California, \$2,000,000.

1 Project 03–D–103, project engi-  
2 neering and design (PED), various lo-  
3 cations, \$17,839,000.

4 Project 03–D–121, gas transfer  
5 capacity expansion, Kansas City  
6 Plant, Kansas City, Missouri,  
7 \$4,000,000.

8 Project 03–D–122, purification  
9 prototype facility, Y–12 Plant, Oak  
10 Ridge, Tennessee, \$20,800,000.

11 Project 03–D–123, special nu-  
12 clear material component requalifica-  
13 tion facility, Pantex Plant, Amarillo,  
14 Texas, \$3,000,000

15 Project 02–D–103, project engi-  
16 neering and design (PED), various lo-  
17 cations, \$24,945,000.

18 Project 02–D–105, engineering  
19 technology complex upgrade, Law-  
20 rence Livermore National Laboratory,  
21 Livermore, California, \$10,000,000.

22 Project 02–D–107, electrical  
23 power systems safety communications  
24 and bus upgrades, Nevada Test Site,  
25 Nevada, \$7,500,000.

1 Project 01–D–103, project engi-  
2 neering and design (PED), various lo-  
3 cations, \$6,164,000.

4 Project 01–D–107, Atlas reloca-  
5 tion, Nevada Test Site, Nevada,  
6 \$4,123,000.

7 Project 01–D–108, microsystems  
8 and engineering sciences applications  
9 (MESA), Sandia National Labora-  
10 tories, Albuquerque, New Mexico,  
11 \$75,000,000.

12 Project 01–D–124, HEU storage  
13 facility, Y–12 Plant, Oak Ridge, Ten-  
14 nessee, \$25,000,000.

15 Project 01–D–126, weapons eval-  
16 uation test laboratory, Pantex Plant,  
17 Amarillo, Texas, \$8,650,000.

18 Project 01–D–800, sensitive com-  
19 partmented information facility, Law-  
20 rence Livermore National Laboratory,  
21 Livermore, California, \$9,611,000.

22 Project 99–D–103, isotope  
23 sciences facilities, Lawrence Liver-  
24 more National Laboratory, Livermore,  
25 California, \$4,011,000.

1 Project 99–D–104, protection of  
2 real property (roof reconstruction,  
3 phase II), Lawrence Livermore Na-  
4 tional Laboratory, Livermore, Cali-  
5 fornia, \$5,915,000.

6 Project 99–D–127, stockpile  
7 management restructuring initiative,  
8 Kansas City Plant, Kansas City, Mis-  
9 souri, \$29,900,000.

10 Project 99–D–128, stockpile  
11 management restructuring initiative,  
12 Pantex Plant, Amarillo, Texas,  
13 \$407,000.

14 Project 98–D–123, stockpile  
15 management restructuring initiative,  
16 tritium facility modernization and  
17 consolidation, Savannah River Plant,  
18 Aiken, South Carolina, \$10,481,000.

19 Project 96–D–102, stockpile  
20 stewardship facilities revitalization,  
21 Phase VI, various locations,  
22 \$1,000,000.

23 (C) For secure transportation asset,  
24 \$157,083,000, to be allocated as follows:



1 (i) For operation and maintenance,  
2 \$102,578,000.

3 (ii) For program direction,  
4 \$54,505,000.

5 (D) For safeguards and security,  
6 \$574,954,000, to be allocated as follows:

7 (i) For operation and maintenance,  
8 \$566,054,000.

9 (ii) For plant projects (including  
10 maintenance, restoration, planning, con-  
11 struction, acquisition, modification of fa-  
12 cilities, and the continuation of projects  
13 authorized in prior years, and land acquisi-  
14 tion related thereto), \$8,900,000, to be al-  
15 located as follows:

16 Project 99–D–132, stockpile  
17 management restructuring initiative,  
18 nuclear material safeguards and secu-  
19 rity upgrades project, Los Alamos Na-  
20 tional Laboratory, Los Alamos, New  
21 Mexico, \$8,900,000.

22 (E) For facilities and infrastructure,  
23 \$242,512,000.

1           (2) DEFENSE NUCLEAR NONPROLIFERATION.—  
2       For defense nuclear nonproliferation activities,  
3       \$1,129,130,000, to be allocated as follows:

4           (A) For operation and maintenance,  
5       \$1,037,130,000, to be allocated as follows:

6           (i) For nonproliferation and  
7       verification research and development,  
8       \$298,907,000.

9           (ii) For nonproliferation programs,  
10       \$446,223,000.

11          (iii) For fissile materials,  
12       \$292,000,000.

13          (B) For plant projects (including mainte-  
14       nance, restoration, planning, construction, ac-  
15       quisition, modification of facilities, and the con-  
16       tinuation of projects authorized in prior years,  
17       and land acquisition related thereto),  
18       \$156,000,000, to be allocated as follows:

19           Project 01–D–407, highly enriched  
20       uranium blend-down, Savannah River Site,  
21       Aiken, South Carolina, \$30,000,000.

22           Project 99–D–141, pit disassembly  
23       and conversion facility, Savannah River  
24       Site, Aiken, South Carolina, \$33,000,000.

1                   Project 99–D–143, mixed oxide fuel  
2                   fabrication facility, Savannah River Site,  
3                   Aiken, South Carolina, \$93,000,000.

4                   (3) NAVAL REACTORS.—For naval reactors,  
5                   \$707,020,000, to be allocated as follows:

6                   (A) For naval reactors development,  
7                   \$682,590,000, to be allocated as follows:

8                   (i) For operation and maintenance,  
9                   \$671,290,000.

10                   (ii) For plant projects (including  
11                   maintenance, restoration, planning, con-  
12                   struction, acquisition, modification of fa-  
13                   cilities, and the continuation of projects  
14                   authorized in prior years, and land acquisi-  
15                   tion related thereto), \$11,300,000, to be  
16                   allocated as follows:

17                   Project 03–D–201, cleanroom  
18                   technology facility, Bettis Atomic  
19                   Power Laboratory, West Mifflin,  
20                   Pennsylvania, \$7,200,000.

21                   Project 01–D–200, major office  
22                   replacement building, Schenectady,  
23                   New York, \$2,100,000.

1 Project 90–N–102, expended core  
2 facility dry cell project, Naval Reac-  
3 tors Facility, Idaho, \$2,000,000.

4 (B) For program direction, \$24,430,000.

5 (4) OFFICE OF ADMINISTRATOR FOR NUCLEAR  
6 SECURITY.—For the Office of the Administrator for  
7 Nuclear Security, and for program direction for the  
8 National Nuclear Security Administration (other  
9 than for naval reactors and secure transportation  
10 asset), \$335,705,000.

11 **SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.**

12 Funds are hereby authorized to be appropriated to  
13 the Department of Energy for fiscal year 2003 for envi-  
14 ronmental management activities in carrying out pro-  
15 grams necessary for national security in the amount of  
16 \$6,710,774,000, to be allocated as follows:

17 (1) CLOSURE PROJECTS.—For closure projects  
18 carried out in accordance with section 3143 of the  
19 National Defense Authorization Act for Fiscal Year  
20 1997 (Public Law 104–201; 110 Stat. 2836; 42  
21 U.S.C. 7277n), \$1,109,314,000.

22 (2) SITE/PROJECT COMPLETION.—For site com-  
23 pletion and project completion in carrying out envi-  
24 ronmental management activities necessary for na-

1 tional security programs, \$793,950,000, to be allo-  
2 cated as follows:

3 (A) For operation and maintenance,  
4 \$779,706,000.

5 (B) For plant projects (including mainte-  
6 nance, restoration, planning, construction, ac-  
7 quisition, modification of facilities, and the con-  
8 tinuation of projects authorized in prior years,  
9 and land acquisition related thereto),  
10 \$14,244,000, to be allocated as follows:

11 Project 02-D-402, Intec cathodic  
12 protection system expansion, Idaho Na-  
13 tional Engineering and Environmental  
14 Laboratory, Idaho Falls, Idaho,  
15 \$1,119,000.

16 Project 02-D-420, plutonium sta-  
17 bilization and packaging, Savannah River  
18 Site, Aiken, South Carolina, \$2,000,000.

19 Project 01-D-414, project engineer-  
20 ing and design (PED), various locations,  
21 \$5,125,000.

22 Project 86-D-103, decontamination  
23 and waste treatment facility, Lawrence  
24 Livermore National Laboratory, Liver-  
25 more, California, \$6,000,000.

1           (3) POST-2006 COMPLETION.—For post-2006  
2 completion in carrying out environmental restoration  
3 and waste management activities necessary for na-  
4 tional security programs, \$2,617,199,000, to be allo-  
5 cated as follows:

6           (A) For operation and maintenance,  
7 \$1,704,341,000.

8           (B) For plant projects (including mainte-  
9 nance, restoration, planning, construction, ac-  
10 quisition, modification of facilities, and the con-  
11 tinuation of projects authorized in prior years,  
12 and land acquisition related thereto),  
13 \$14,870,000, to be allocated as follows:

14           Project 93–D–187, high-level waste  
15 removal from filled waste tanks, Savannah  
16 River Site, Aiken, South Carolina,  
17 \$14,870,000.

18           (C) For the Office of River Protection in  
19 carrying out environmental restoration and  
20 waste management activities necessary for na-  
21 tional security programs, \$897,988,000, to be  
22 allocated as follows:

23           (i) For operation and maintenance,  
24 \$226,256,000.

1 (ii) For plant projects (including  
2 maintenance, restoration, planning, con-  
3 struction, acquisition, modification of fa-  
4 cilities, and the continuation of projects  
5 authorized in prior years, and land acquisi-  
6 tion related thereto), \$671,732,000, to be  
7 allocated as follows:

8 Project 03-D-403, immobilized  
9 high-level waste interim storage facil-  
10 ity, Richland, Washington,  
11 \$6,363,000.

12 Project 01-D-416, waste treat-  
13 ment and immobilization plant, Rich-  
14 land, Washington, \$619,000,000.

15 Project 97-D-402, tank farm  
16 restoration and safe operations, Rich-  
17 land, Washington, \$25,424,000.

18 Project 94-D-407, initial tank  
19 retrieval systems, Richland, Wash-  
20 ington, \$20,945,000.

21 (4) SCIENCE AND TECHNOLOGY DEVELOP-  
22 MENT.—For science and technology development in  
23 carrying out environmental management activities  
24 necessary for national security programs,  
25 \$92,000,000.

1           (5) EXCESS FACILITIES.—For excess facilities  
2 in carrying out environmental management activities  
3 necessary for national security programs,  
4 \$1,300,000.

5           (6) SAFEGUARDS AND SECURITY.—For safe-  
6 guards and security in carrying out environmental  
7 management activities necessary for national secu-  
8 rity programs, \$278,260,000.

9           (7) URANIUM ENRICHMENT DECONTAMINATION  
10 AND DECOMMISSIONING FUND.—For contribution to  
11 the Uranium Enrichment Decontamination and De-  
12 commissioning Fund under chapter 28 of the Atomic  
13 Energy Act of 1954 (42 U.S.C. 2297g et seq.),  
14 \$441,000,000.

15           (8) ENVIRONMENTAL MANAGEMENT CLEANUP  
16 REFORM.—For accelerated environmental restoration  
17 and waste management activities, \$1,000,000,000.

18           (9) PROGRAM DIRECTION.—For program direc-  
19 tion in carrying out environmental restoration and  
20 waste management activities necessary for national  
21 security programs, \$396,098,000.

22 **SEC. 3103. OTHER DEFENSE ACTIVITIES.**

23 Funds are hereby authorized to be appropriated to  
24 the Department of Energy for fiscal year 2003 for other  
25 defense activities in carrying out programs necessary for



1 national security in the amount of \$489,883,000, to be  
2 allocated as follows:

3 (1) INTELLIGENCE.—For intelligence,  
4 \$43,559,000.

5 (2) COUNTERINTELLIGENCE.—For counter-  
6 intelligence, \$48,083,000.

7 (3) OFFICE OF SECURITY.—For the Office of  
8 Security for security, \$252,218,000, to be allocated  
9 as follows:

10 (A) For nuclear safeguards and security,  
11 \$156,102,000.

12 (B) For security investigations,  
13 \$45,870,000.

14 (C) For program direction, \$50,246,000.

15 (4) INDEPENDENT OVERSIGHT AND PERFORM-  
16 ANCE ASSURANCE.—For independent oversight and  
17 performance assurance, \$22,615,000.

18 (5) OFFICE OF ENVIRONMENT, SAFETY, AND  
19 HEALTH.—For the Office of Environment, Safety,  
20 and Health, \$104,910,000, to be allocated as fol-  
21 lows:

22 (A) For environment, safety, and health  
23 (defense), \$86,892,000.

24 (B) For program direction, \$18,018,000.

1           (6) WORKER AND COMMUNITY TRANSITION AS-  
2           SISTANCE.—For worker and community transition  
3           assistance, \$25,774,000, to be allocated as follows:

4                   (A) For worker and community transition,  
5                   \$22,965,000.

6                   (B) For program direction, \$2,809,000.

7           (7) OFFICE OF HEARINGS AND APPEALS.—For  
8           the Office of Hearings and Appeals, \$3,136,000.

9   **SEC. 3104. DEFENSE ENVIRONMENTAL MANAGEMENT PRI-**  
10                   **VATIZATION.**

11           Funds are hereby authorized to be appropriated to  
12           the Department of Energy for fiscal year 2003 for privat-  
13           ization initiatives in carrying out environmental restora-  
14           tion and waste management activities necessary for na-  
15           tional security programs in the amount of \$158,399,000,  
16           to be allocated as follows:

17                   Project 98–PVT–2, spent nuclear fuel dry stor-  
18                   age, Idaho Falls, Idaho, \$53,399,000.

19                   Project 97–PVT–2, advanced mixed waste  
20                   treatment project, Idaho Falls, Idaho, \$105,000,000.

21   **SEC. 3105. DEFENSE NUCLEAR WASTE DISPOSAL.**

22           Funds are hereby authorized to be appropriated to  
23           the Department of Energy for fiscal year 2003 for pay-  
24           ment to the Nuclear Waste Fund established in section

1 302(c) of the Nuclear Waste Policy Act of 1982 (42  
2 U.S.C. 10222(c)) in the amount of \$215,000,000.

## 3 **Subtitle B—Recurring General** 4 **Provisions**

### 5 **SEC. 3121. REPROGRAMMING.**

6 (a) IN GENERAL.—Until the Secretary of Energy  
7 submits to the congressional defense committees the re-  
8 port referred to in subsection (b) and a period of 30 days  
9 has elapsed after the date on which such committees re-  
10 ceive the report, the Secretary may not use amounts ap-  
11 propriated pursuant to this title for any program—

12 (1) in amounts that exceed, in a fiscal year—

13 (A) 115 percent of the amount authorized  
14 for that program by this title; or

15 (B) \$5,000,000 more than the amount au-  
16 thorized for that program by this title; or

17 (2) which has not been presented to, or re-  
18 quested of, Congress.

19 (b) REPORT.—(1) The report referred to in sub-  
20 section (a) is a report containing a full and complete state-  
21 ment of the action proposed to be taken and the facts and  
22 circumstances relied upon in support of the proposed ac-  
23 tion.

24 (2) In the computation of the 30-day period under  
25 subsection (a), there shall be excluded any day on which

1 either House of Congress is not in session because of an  
2 adjournment of more than 3 days to a day certain.

3 (c) LIMITATIONS.—(1) In no event may the total  
4 amount of funds obligated pursuant to this title exceed  
5 the total amount authorized to be appropriated by this  
6 title.

7 (2) Funds appropriated pursuant to this title may not  
8 be used for an item for which Congress has specifically  
9 denied funds.

10 **SEC. 3122. LIMITS ON MINOR CONSTRUCTION PROJECTS.**

11 (a) AUTHORITY.—The Secretary of Energy may  
12 carry out any minor construction project using operation  
13 and maintenance funds, or facilities and infrastructure  
14 funds, authorized by this title.

15 (b) ANNUAL REPORT.—The Secretary shall submit  
16 to the congressional defense committees on an annual  
17 basis a report on each exercise of the authority in sub-  
18 section (a) during the preceding year. Each report shall  
19 provide a brief description of each minor construction  
20 project covered by the report.

21 (c) COST VARIATION REPORTS TO CONGRESSIONAL  
22 COMMITTEES.—If, at any time during the construction of  
23 any minor construction project authorized by this title, the  
24 estimated cost of the project is revised and the revised  
25 cost of the project exceeds \$5,000,000, the Secretary shall

1 immediately submit to the congressional defense commit-  
2 tees a report explaining the reasons for the cost variation.

3 (d) MINOR CONSTRUCTION PROJECT DEFINED.—In  
4 this section, the term “minor construction project” means  
5 any plant project not specifically authorized by law if the  
6 approved total estimated cost of the plant project does not  
7 exceed \$5,000,000.

8 **SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.**

9 (a) IN GENERAL.—(1) Except as provided in para-  
10 graph (2), construction on a construction project may not  
11 be started or additional obligations incurred in connection  
12 with the project above the total estimated cost, whenever  
13 the current estimated cost of the construction project, au-  
14 thorized by section 3101, 3102, or 3103, or which is in  
15 support of national security programs of the Department  
16 of Energy and was authorized by any previous Act, ex-  
17 ceeds by more than 25 percent the higher of—

18 (A) the amount authorized for the project; or

19 (B) the amount of the total estimated cost for  
20 the project as shown in the most recent budget jus-  
21 tification data submitted to Congress.

22 (2) An action described in paragraph (1) may be  
23 taken if—

24 (A) the Secretary of Energy has submitted to  
25 the congressional defense committees a report on the

1 actions and the circumstances making such action  
2 necessary; and

3 (B) a period of 30 days has elapsed after the  
4 date on which the report is received by the commit-  
5 tees.

6 (b) EXCEPTION.—Subsection (a) does not apply to a  
7 construction project with a current estimated cost of less  
8 than \$5,000,000.

9 **SEC. 3124. FUND TRANSFER AUTHORITY.**

10 (a) TRANSFER TO OTHER FEDERAL AGENCIES.—  
11 The Secretary of Energy may transfer funds authorized  
12 to be appropriated to the Department of Energy pursuant  
13 to this title to other Federal agencies for the performance  
14 of work for which the funds were authorized. Funds so  
15 transferred may be merged with and be available for the  
16 same purposes and for the same time period as the author-  
17 izations of the Federal agency to which the amounts are  
18 transferred.

19 (b) TRANSFER WITHIN DEPARTMENT OF ENERGY.—  
20 (1) Subject to paragraph (2), the Secretary of Energy may  
21 transfer funds authorized to be appropriated to the De-  
22 partment of Energy pursuant to this title between any  
23 such authorizations. Amounts of authorizations so trans-  
24 ferred may be merged with and be available for the same

1 purposes and for the same period as the authorization to  
2 which the amounts are transferred.

3 (2) Not more than 5 percent of any such authoriza-  
4 tion may be transferred between authorizations under  
5 paragraph (1). No such authorization may be increased  
6 or decreased by more than 5 percent by a transfer under  
7 such paragraph.

8 (c) LIMITATIONS.—The authority provided by this  
9 subsection to transfer authorizations—

10 (1) may be used only to provide funds for items  
11 relating to activities necessary for national security  
12 programs that have a higher priority than the items  
13 from which the funds are transferred; and

14 (2) may not be used to provide funds for an  
15 item for which Congress has specifically denied  
16 funds.

17 (d) NOTICE TO CONGRESS.—The Secretary of En-  
18 ergy shall promptly notify the Committees on Armed Serv-  
19 ices of the Senate and House of Representatives of any  
20 transfer of funds to or from authorizations under this  
21 title.

22 **SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUC-**  
23 **TION DESIGN.**

24 (a) REQUIREMENT OF CONCEPTUAL DESIGN.—(1)  
25 Subject to paragraph (2) and except as provided in para-

1 graph (3), before submitting to Congress a request for  
2 funds for a construction project that is in support of a  
3 national security program of the Department of Energy,  
4 the Secretary of Energy shall complete a conceptual de-  
5 sign for that project.

6 (2) If the estimated cost of completing a conceptual  
7 design for a construction project exceeds \$3,000,000, the  
8 Secretary shall submit to Congress a request for funds for  
9 the conceptual design before submitting a request for  
10 funds for the construction project.

11 (3) The requirement in paragraph (1) does not apply  
12 to a request for funds—

13 (A) for a minor construction project the total  
14 estimated cost of which is less than \$5,000,000; or

15 (B) for emergency planning, design, and con-  
16 struction activities under section 3126.

17 (b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1)  
18 Within the amounts authorized by this title, the Secretary  
19 of Energy may carry out construction design (including  
20 architectural and engineering services) in connection with  
21 any proposed construction project if the total estimated  
22 cost for such design does not exceed \$600,000.

23 (2) If the total estimated cost for construction design  
24 in connection with any construction project exceeds



1 \$600,000, funds for that design must be specifically au-  
2 thorized by law.

3 **SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DE-**  
4 **SIGN, AND CONSTRUCTION ACTIVITIES.**

5 (a) **AUTHORITY.**—The Secretary of Energy may use  
6 any funds available to the Department of Energy pursuant  
7 to an authorization in this title, including funds authorized  
8 to be appropriated for advance planning, engineering, and  
9 construction design, and for plant projects, under sections  
10 3101, 3102, 3103, and 3104 to perform planning, design,  
11 and construction activities for any Department of Energy  
12 national security program construction project that, as de-  
13 termined by the Secretary, must proceed expeditiously in  
14 order to protect public health and safety, to meet the  
15 needs of national defense, or to protect property.

16 (b) **LIMITATION.**—The Secretary may not exercise  
17 the authority under subsection (a) in the case of any con-  
18 struction project until the Secretary has submitted to the  
19 congressional defense committees a report on the activities  
20 that the Secretary intends to carry out under this section  
21 and the circumstances making those activities necessary.

22 (c) **SPECIFIC AUTHORITY.**—The requirement of sec-  
23 tion 3125(b)(2) does not apply to emergency planning, de-  
24 sign, and construction activities conducted under this sec-  
25 tion.

1 **SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECUR-**  
2 **RITY PROGRAMS OF THE DEPARTMENT OF**  
3 **ENERGY.**

4 Subject to the provisions of appropriation Acts and  
5 section 3121, amounts appropriated pursuant to this title  
6 for management and support activities and for general  
7 plant projects are available for use, when necessary, in  
8 connection with all national security programs of the De-  
9 partment of Energy.

10 **SEC. 3128. AVAILABILITY OF FUNDS.**

11 (a) IN GENERAL.—Except as provided in subsection  
12 (b), when so specified in an appropriations Act, amounts  
13 appropriated for operation and maintenance or for plant  
14 projects may remain available until expended.

15 (b) EXCEPTION FOR PROGRAM DIRECTION FUNDS.—  
16 Amounts appropriated for program direction pursuant to  
17 an authorization of appropriations in subtitle A shall re-  
18 main available to be expended only until the end of fiscal  
19 year 2004.

20 **SEC. 3129. TRANSFER OF DEFENSE ENVIRONMENTAL MAN-**  
21 **AGEMENT FUNDS.**

22 (a) TRANSFER AUTHORITY FOR DEFENSE ENVIRON-  
23 MENTAL MANAGEMENT FUNDS.—The Secretary of En-  
24 ergy shall provide the manager of each field office of the  
25 Department of Energy with the authority to transfer de-  
26 fense environmental management funds from a program

1 or project under the jurisdiction of that office to another  
2 such program or project.

3 (b) LIMITATIONS.—(1) Not more than three trans-  
4 fers may be made to or from any program or project under  
5 subsection (a) in a fiscal year.

6 (2) The amount transferred to or from a program  
7 or project in any one transfer under subsection (a) may  
8 not exceed \$5,000,000.

9 (3) A transfer may not be carried out by a manager  
10 of a field office under subsection (a) unless the manager  
11 determines that the transfer is necessary—

12 (A) to address a risk to health, safety, or the  
13 environment; or

14 (B) to assure the most efficient use of defense  
15 environmental management funds at the field office.

16 (4) Funds transferred pursuant to subsection (a)  
17 may not be used for an item for which Congress has spe-  
18 cifically denied funds or for a new program or project that  
19 has not been authorized by Congress.

20 (c) EXEMPTION FROM REPROGRAMMING REQUIRE-  
21 MENTS.—The requirements of section 3121 shall not  
22 apply to transfers of funds pursuant to subsection (a).

23 (d) NOTIFICATION.—The Secretary, acting through  
24 the Assistant Secretary of Energy for Environmental  
25 Management, shall notify Congress of any transfer of

1 funds pursuant to subsection (a) not later than 30 days  
2 after such transfer occurs.

3 (e) DEFINITIONS.—In this section:

4 (1) The term “program or project” means, with  
5 respect to a field office of the Department of En-  
6 ergy, any of the following:

7 (A) A program referred to or a project list-  
8 ed in paragraph (2) or (3) of section 3102.

9 (B) A program or project not described in  
10 subparagraph (A) that is for environmental res-  
11 toration or waste management activities nec-  
12 essary for national security programs of the De-  
13 partment, that is being carried out by that of-  
14 fice, and for which defense environmental man-  
15 agement funds have been authorized and appro-  
16 priated before the date of the enactment of this  
17 Act.

18 (2) The term “defense environmental manage-  
19 ment funds” means funds appropriated to the De-  
20 partment of Energy pursuant to an authorization for  
21 carrying out environmental restoration and waste  
22 management activities necessary for national secu-  
23 rity programs.

24 (f) DURATION OF AUTHORITY.—The managers of the  
25 field offices of the Department may exercise the authority

1 provided under subsection (a) during the period beginning  
2 on October 1, 2002, and ending on September 30, 2003.

3 **SEC. 3130. TRANSFER OF WEAPONS ACTIVITIES FUNDS.**

4 (a) **TRANSFER AUTHORITY FOR WEAPONS ACTIVI-**  
5 **TIES FUNDS.**—The Secretary of Energy shall provide the  
6 manager of each field office of the Department of Energy  
7 with the authority to transfer weapons activities funds  
8 from a program or project under the jurisdiction of that  
9 office to another such program or project.

10 (b) **LIMITATIONS.**—(1) Not more than three trans-  
11 fers may be made to or from any program or project under  
12 subsection (a) in a fiscal year.

13 (2) The amount transferred to or from a program  
14 or project in any one transfer under subsection (a) may  
15 not exceed \$5,000,000.

16 (3) A transfer may not be carried out by a manager  
17 of a field office under subsection (a) unless the manager  
18 determines that the transfer—

19 (A) is necessary to address a risk to health,  
20 safety, or the environment; or

21 (B) will result in cost savings and efficiencies.

22 (4) A transfer may not be carried out by a manager  
23 of a field office under subsection (a) to cover a cost over-  
24 run or scheduling delay for any program or project.

1           (5) Funds transferred pursuant to subsection (a)  
2 may not be used for an item for which Congress has spe-  
3 cifically denied funds or for a new program or project that  
4 has not been authorized by Congress.

5           (c) EXEMPTION FROM REPROGRAMMING REQUIRE-  
6 MENTS.—The requirements of section 3121 shall not  
7 apply to transfers of funds pursuant to subsection (a).

8           (d) NOTIFICATION.—The Secretary, acting through  
9 the Administrator for Nuclear Security, shall notify Con-  
10 gress of any transfer of funds pursuant to subsection (a)  
11 not later than 30 days after such transfer occurs.

12           (e) DEFINITIONS.—In this section:

13               (1) The term “program or project” means, with  
14 respect to a field office of the Department of En-  
15 ergy, any of the following:

16                       (A) A program referred to or a project list-  
17 ed in section 3101(1).

18                       (B) A program or project not described in  
19 subparagraph (A) that is for weapons activities  
20 necessary for national security programs of the  
21 Department, that is being carried out by that  
22 office, and for which weapons activities funds  
23 have been authorized and appropriated before  
24 the date of the enactment of this Act.

1           (2) The term “weapons activities funds” means  
2 funds appropriated to the Department of Energy  
3 pursuant to an authorization for carrying out weap-  
4 ons activities necessary for national security pro-  
5 grams.

6           (f) DURATION OF AUTHORITY.—The managers of the  
7 field offices of the Department may exercise the authority  
8 provided under subsection (a) during the period beginning  
9 on October 1, 2002, and ending on September 30, 2003.

10 **Subtitle C—Program Authoriza-**  
11 **tions, Restrictions, and Limita-**  
12 **tions**

13 **SEC. 3131. AVAILABILITY OF FUNDS FOR ENVIRONMENTAL**  
14 **MANAGEMENT CLEANUP REFORM.**

15           (a) LIMITATION ON AVAILABILITY FOR ENVIRON-  
16 MENTAL MANAGEMENT CLEANUP REFORM.—None of the  
17 funds authorized to be appropriated by section 3102(8)  
18 for the Department of Energy for environmental manage-  
19 ment cleanup reform may be obligated or expended until  
20 the Secretary of Energy—

21           (1) publishes in the Federal Register, and sub-  
22 mits to the congressional defense committees, a re-  
23 port setting forth criteria established by the  
24 Secretary—

1 (A) for selecting the projects that will re-  
2 ceive funding using such funds; and

3 (B) for setting priorities among the  
4 projects selected under subparagraph (A); or

5 (2) notifies the congressional defense commit-  
6 tees that the criteria described by paragraph (1) will  
7 not be established.

8 (b) REQUIREMENTS REGARDING ESTABLISHMENT  
9 OF CRITERIA.—Before establishing criteria, if any, under  
10 subsection (a)(1), the Secretary shall publish a proposal  
11 for such criteria in the Federal Register, and shall provide  
12 a period of 45 days for public notice and comment on the  
13 proposal.

14 (c) AVAILABILITY OF FUNDS IF CRITERIA ARE NOT  
15 ESTABLISHED.—(1) If the Secretary exercises the author-  
16 ity under subsection (a)(2), the Secretary shall reallocate  
17 the funds referred to in subsection (a) among sites that  
18 received funds during fiscal year 2002 for defense environ-  
19 mental restoration and waste management activities under  
20 section 3102 of the National Defense Authorization Act  
21 for Fiscal Year 2002 (Public Law 107–197; 115 Stat.  
22 1358).

23 (2) The amount of funds referred to in subsection  
24 (a) that are allocated under paragraph (1) to a site de-  
25 scribed in that paragraph shall bear the same ratio to the



1 amount of funds referred to in subsection (a) as the  
2 amount of funds received by such site during fiscal year  
3 2002 under section 3102 of the National Defense Author-  
4 ization Act for Fiscal Year 2002 bears to the total amount  
5 of funds made available to all sites during fiscal year 2002  
6 under that section.

7 (3) No funds allocated under paragraph (1) may be  
8 obligated or expended until 30 days after the Secretary  
9 submits to the congressional defense committee a list of  
10 the projects at each site allocated funds under that para-  
11 graph, and the amount of such funds to be provided to  
12 each such project at each such site.

13 (4) Funds referred to in subsection (a) may not be  
14 obligated or expended for any site that was not funded  
15 in fiscal year 2002 from amounts available to the Depart-  
16 ment of Energy under title XXXI of the National Defense  
17 Authorization Act for Fiscal Year 2002.

18 **SEC. 3132. ROBUST NUCLEAR EARTH PENETRATOR.**

19 Not later than February 3, 2003, the Secretary of  
20 Defense shall, in consultation with the Secretary of En-  
21 ergy, submit to the congressional defense committees a re-  
22 port on the Robust Nuclear Earth Penetrator (RNEP).  
23 The report shall set forth—

24 (1) the military requirements for the Robust  
25 Nuclear Earth Penetrator;

1           (2) the nuclear weapons employment policy re-  
2           garding the Robust Nuclear Earth Penetrator;

3           (3) a detailed description of the categories or  
4           types of targets that the Robust Nuclear Earth Pen-  
5           etrator is designed to hold at risk; and

6           (4) an assessment of the ability of conventional  
7           weapons to address the same categories and types of  
8           targets described under paragraph (3).

9 **SEC. 3133. DATABASE TO TRACK NOTIFICATION AND RESO-**  
10 **LUTION PHASES OF SIGNIFICANT FINDING**  
11 **INVESTIGATIONS.**

12       (a) **AVAILABILITY OF FUNDS FOR DATABASE.—**  
13 Amounts authorized to be appropriated by section 3101(1)  
14 for the National Nuclear Security Administration for  
15 weapons activities shall be available to the Deputy Admin-  
16 istrator for Nuclear Security for Defense Programs for the  
17 development and implementation of a database for all na-  
18 tional security laboratories to track the notification and  
19 resolution phases of Significant Finding Investigations  
20 (SFIs). The purpose of the database is to facilitate the  
21 monitoring of the progress and accountability of the na-  
22 tional security laboratories in Significant Finding Inves-  
23 tigations.

1 (b) IMPLEMENTATION DEADLINE.—The database re-  
2 quired by subsection (a) shall be implemented not later  
3 than September 30, 2003.

4 (c) NATIONAL SECURITY LABORATORY DEFINED.—  
5 In this section, the term “national security laboratory”  
6 has the meaning given that term in section 3281(1) of  
7 the National Nuclear Security Administration Act (title  
8 XXXII of Public Law 106–65; 113 Stat. 968; 50 U.S.C.  
9 2471(1)).

10 **SEC. 3134. REQUIREMENTS FOR SPECIFIC REQUEST FOR**  
11 **NEW OR MODIFIED NUCLEAR WEAPONS.**

12 (a) REQUIREMENT FOR REQUEST FOR FUNDS FOR  
13 DEVELOPMENT.—(1) In any fiscal year after fiscal year  
14 2002 in which the Secretary of Energy plans to carry out  
15 activities described in paragraph (2) relating to the devel-  
16 opment of a new nuclear weapon or modified nuclear  
17 weapon, the Secretary shall specifically request funds for  
18 such activities in the budget of the President for that fis-  
19 cal year under section 1105(a) of title 31, United States  
20 Code.

21 (2) The activities described in this paragraph are as  
22 follows:

23 (A) The conduct, or provision for conduct, of  
24 research and development which could lead to the

1 production of a new nuclear weapon by the United  
2 States.

3 (B) The conduct, or provision for conduct, of  
4 engineering or manufacturing to carry out the pro-  
5 duction of a new nuclear weapon by the United  
6 States.

7 (C) The conduct, or provision for conduct, of  
8 research and development which could lead to the  
9 production of a modified nuclear weapon by the  
10 United States.

11 (D) The conduct, or provision for conduct, of  
12 engineering or manufacturing to carry out the pro-  
13 duction of a modified nuclear weapon by the United  
14 States.

15 (b) BUDGET REQUEST FORMAT.—The Secretary  
16 shall include in a request for funds under subsection (a)  
17 the following:

18 (1) In the case of funds for activities described  
19 in subparagraph (A) or (C) of subsection (a)(2), a  
20 dedicated line item for each such activity for a new  
21 nuclear weapon or modified nuclear weapons that is  
22 in phase 1 or 2A or phase 6.1 or 6.2A, as the case  
23 may be, of the nuclear weapons acquisition process.

24 (2) In the case of funds for activities described  
25 in subparagraph (B) or (D) of subsection (a)(2), a

1 dedicated line item for each such activity for a new  
2 nuclear weapon or modified nuclear weapon that is  
3 in phase 3 or higher or phase 6.3 or higher, as the  
4 case may be, of the nuclear weapons acquisition  
5 process.

6 (c) EXCEPTION.—Subsections (a) shall not apply to  
7 funds for purposes of conducting, or providing for the con-  
8 duct of, research and development, or manufacturing and  
9 engineering, determined by the Secretary to be  
10 necessary—

11 (1) for the nuclear weapons life extension pro-  
12 gram;

13 (2) to modify an existing nuclear weapon solely  
14 to address safety or reliability concerns; or

15 (3) to address proliferation concerns.

16 (d) CONSTRUCTION WITH PROHIBITION ON RE-  
17 SEARCH AND DEVELOPMENT ON LOW-YIELD NUCLEAR  
18 WEAPONS.—Nothing in this section may be construed to  
19 modify, repeal, or in any way affect the provisions of sec-  
20 tion 3136 of the National Defense Authorization Act for  
21 Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946;  
22 42 U.S.C. 2121 note), relating to prohibitions on research  
23 and development on low-yield nuclear weapons.

24 (e) DEFINITIONS.—In this section:

1           (1) The term “life extension program” means  
2 the program to repair or replace non-nuclear compo-  
3 nents, or to modify the pit or canned subassembly,  
4 of nuclear weapons in the nuclear weapons stockpile  
5 on the date of the enactment of this Act in order to  
6 assure that such nuclear weapons retain the ability  
7 to meet the military requirements applicable to such  
8 nuclear weapons when first placed in the nuclear  
9 weapons stockpile.

10           (2) The term “modified nuclear weapon” means  
11 a nuclear weapon that contains a pit or canned sub-  
12 assembly, either of which—

13                   (A) is in the nuclear weapons stockpile as  
14 of the date of the enactment of this Act; and

15                   (B) is being modified in order to meet a  
16 military requirement that is other than the mili-  
17 tary requirements applicable to such nuclear  
18 weapon when first placed in the nuclear weap-  
19 ons stockpile.

20           (3) The term “new nuclear weapon” means a  
21 nuclear weapon that contains a pit or canned sub-  
22 assembly, either of which is neither—

23                   (A) in the nuclear weapons stockpile on the  
24 date of the enactment of this Act; nor

25                   (B) in production as of that date.

1 **SEC. 3135. REQUIREMENT FOR AUTHORIZATION BY LAW**  
2 **FOR FUNDS OBLIGATED OR EXPENDED FOR**  
3 **DEPARTMENT OF ENERGY NATIONAL SECUR-**  
4 **RITY ACTIVITIES.**

5 Section 660 of the Department of Energy Organiza-  
6 tion Act (42 U.S.C. 7270) is amended—

7 (1) by inserting “(a)” before “Appropriations”;

8 and

9 (2) by adding at the end the following new sub-  
10 section:

11 “(b)(1) No funds for the Department may be obli-  
12 gated or expended for—

13 “(A) national security programs and activities  
14 of the Department; or

15 “(B) activities under the Atomic Energy Act of  
16 1954 (42 U.S.C. 2012 et seq.);

17 unless funds therefor have been specifically authorized by  
18 law.

19 “(2) Nothing in paragraph (1) may be construed to  
20 preclude the requirement under subsection (a), or under  
21 any other provision of law, for an authorization of appro-  
22 priations for programs and activities of the Department  
23 (other than programs and activities covered by that para-  
24 graph) as a condition to the obligation and expenditure  
25 of funds for programs and activities of the Department

1 (other than programs and activities covered by that para-  
2 graph).”.

3 **SEC. 3136. LIMITATION ON AVAILABILITY OF FUNDS FOR**  
4 **PROGRAM TO ELIMINATE WEAPONS GRADE**  
5 **PLUTONIUM PRODUCTION IN RUSSIA.**

6 (a) **LIMITATION.**—Of the amounts authorized to be  
7 appropriated by this title for the program to eliminate  
8 weapons grade plutonium production, the Administrator  
9 for Nuclear Security may not obligate or expend more  
10 than \$100,000,000 for that program until 30 days after  
11 the date on which the Administrator submits to the con-  
12 gressional defense committees a copy of an agreement en-  
13 tered into between the United States Government and the  
14 Government of the Russian Federation to shut down the  
15 three plutonium-producing reactors in Russia.

16 (b) **AGREEMENT ELEMENTS.**—The agreement under  
17 subsection (a)—

18 (1) shall contain—

19 (A) a commitment to shut down the three  
20 plutonium-producing reactors;

21 (B) the date on which each such reactor  
22 will be shut down;

23 (C) a schedule and milestones for each  
24 such reactor to complete the shut down of such



1 reactor by the date specified under subpara-  
2 graph (B);

3 (D) an arrangement for access to sites and  
4 facilities necessary to meet such schedules and  
5 milestones; and

6 (E) an arrangement for audit and exam-  
7 ination procedures in order to evaluate progress  
8 in meeting such schedules and milestones; and

9 (2) may include cost sharing arrangements.

## 10 **Subtitle D—Proliferation Matters**

### 11 **SEC. 3151. ADMINISTRATION OF PROGRAM TO ELIMINATE** 12 **WEAPONS GRADE PLUTONIUM PRODUCTION** 13 **IN RUSSIA.**

14 (a) TRANSFER OF PROGRAM TO DEPARTMENT OF  
15 ENERGY.—The program to eliminate weapons grade plu-  
16 tonium production in Russia shall be transferred from the  
17 Department of Defense to the Department of Energy.

18 (b) TRANSFER OF ASSOCIATED FUNDS.—(1) Not-  
19 withstanding any restriction or limitation in law on the  
20 availability of Cooperative Threat Reduction funds speci-  
21 fied in paragraph (2), the Cooperative Threat Reduction  
22 funds specified in that paragraph that are available for  
23 the program referred to in subsection (a) shall be trans-  
24 ferred from the Department of Defense to the Department  
25 of Energy.

1       (2) The Cooperative Threat Reduction funds speci-  
2 fied in this paragraph are the following:

3           (A) Fiscal year 2002 Cooperative Threat Re-  
4 duction funds, as specified in section 1301(b) of the  
5 National Defense Authorization Act for Fiscal Year  
6 2002 (Public Law 107–107; 115 Stat. 1254; 22  
7 U.S.C. 5952 note).

8           (B) Fiscal year 2001 Cooperative Threat Re-  
9 duction funds, as specified in section 1301(b) of the  
10 Floyd D. Spence National Defense Authorization  
11 Act for Fiscal Year 2001 (as enacted into law by  
12 Public Law 106–398; 114 Stat. 1654A–339).

13           (C) Fiscal year 2000 Cooperative Threat Re-  
14 duction funds, as specified in section 1301(b) of the  
15 National Defense Authorization Act for Fiscal Year  
16 2000 (Public Law 106–65; 113 Stat. 792; 22 U.S.C.  
17 5952 note).

18       (c) AVAILABILITY OF TRANSFERRED FUNDS.—(1)  
19 Notwithstanding any restriction or limitation in law on the  
20 availability of Cooperative Threat Reduction funds speci-  
21 fied in subsection (b)(2), the Cooperative Threat Reduc-  
22 tion funds transferred under subsection (b) for the pro-  
23 gram referred to in subsection (a) shall be available for  
24 activities as follows:

1 (A) To design and construct, refurbish, or both,  
2 fossil fuel energy plants in Russia that provide alter-  
3 native sources of energy to the energy plants in Rus-  
4 sia that produce weapons grade plutonium.

5 (B) To carry out limited safety upgrades of not  
6 more than three energy plants in Russia that  
7 produce weapons grade plutonium in order to permit  
8 the shutdown of such energy plants and eliminate  
9 the production of weapons grade plutonium in such  
10 energy plants.

11 (2) Amounts available under paragraph (1) for activi-  
12 ties referred to in that paragraph shall remain available  
13 for such activities until expended.

14 **SEC. 3152. SECURITY OF NUCLEAR MATERIALS AND FACILI-**  
15 **TIES WORLDWIDE.**

16 (a) SENSE OF CONGRESS ON PROGRAM TO SECURE  
17 STOCKPILES OF HIGHLY ENRICHED URANIUM AND PLU-  
18 TONIUM.—(1) It is the sense of Congress that the Sec-  
19 retary of Energy, in consultation with the Secretary of  
20 State and Secretary of Defense, should develop a com-  
21 prehensive program of activities to encourage all countries  
22 with nuclear materials to adhere to, or to adopt standards  
23 equivalent to, the International Atomic Energy Agency  
24 standard on The Physical Protection of Nuclear Material  
25 and Nuclear Facilities (INFCIRC/225/Rev.4), relating to

1 the security of stockpiles of highly enriched uranium  
2 (HEU) and plutonium (Pu).

3 (2) To the maximum extent practicable, the program  
4 should be developed in consultation with the Russian Fed-  
5 eration, other Group of 8 countries, and other allies of  
6 the United States.

7 (3) Activities under the program should include spe-  
8 cific, targeted incentives intended to encourage countries  
9 that cannot undertake the expense of conforming to the  
10 standard referred to in paragraph (1) to relinquish their  
11 highly enriched uranium (HEU) or plutonium (Pu), in-  
12 cluding incentives in which a country, group of countries,  
13 or international body—

14 (A) purchase such materials and provide for  
15 their security (including by removal to another loca-  
16 tion);

17 (B) undertake the costs of decommissioning fa-  
18 cilities that house such materials;

19 (C) in the case of research reactors, convert  
20 such reactors to low-enriched uranium reactors; or

21 (D) upgrade the security of facilities that house  
22 such materials in order to meet stringent security  
23 standards that are established for purposes of the  
24 program based upon agreed best practices.

1 (b) STUDY OF PROGRAM TO SECURE CERTAIN RADI-  
2 OLOGICAL MATERIALS.—(1) The Secretary of Energy,  
3 acting through the Administrator for Nuclear Security  
4 shall require the Office of International Materials Protec-  
5 tion, Control, and Accounting of the Department of En-  
6 ergy to conduct a study to determine the feasibility and  
7 advisability of developing a program to secure radiological  
8 materials outside the United States that pose a threat to  
9 the national security of the United States.

10 (2) The study under paragraph (1) shall include the  
11 following:

12 (A) An identification of the categories of radio-  
13 logical materials that are covered by that paragraph,  
14 including an order of priority for securing each cat-  
15 egory of such radiological materials.

16 (B) An estimate of the number of sites at which  
17 such radiological materials are present.

18 (C) An assessment of the effort required to se-  
19 cure such radiological materials at such sites,  
20 including—

21 (i) a description of the security upgrades,  
22 if any, that are required at such sites;

23 (ii) an assessment of the costs of securing  
24 such radiological materials at such sites;

1 (iii) a description of any cost-sharing ar-  
2 rangements to defray such costs;

3 (iv) a description of any legal impediments  
4 to such effort, including a description of means  
5 of overcoming such impediments; and

6 (v) a description of the coordination re-  
7 quired for such effort among appropriate  
8 United States Government entities (including  
9 the Nuclear Regulatory Commission), partici-  
10 pating countries, and international bodies (in-  
11 cluding the International Atomic Energy Agen-  
12 cy).

13 (D) A description of the pilot project under-  
14 taken in Russia.

15 (3) In identifying categories of radiological materials  
16 under paragraph (2)(A), the Secretary shall take into ac-  
17 count matters relating to specific activity, half-life, radi-  
18 ation type and energy, attainability, difficulty of handling,  
19 and toxicity, and such other matters as the Secretary con-  
20 siders appropriate.

21 (4) Not later than one year after the date of the en-  
22 actment of this Act, the Secretary shall submit to Con-  
23 gress a report on the study conducted under this sub-  
24 section. The report shall include the matters specified  
25 under paragraph (2) and such other matters, including

1 recommendations, as the Secretary considers appropriate  
2 as a result of the study.

3 (5) In this subsection, the term “radiological mate-  
4 rial” means any radioactive material, other than pluto-  
5 nium (Pu) or uranium enriched above 20 percent ura-  
6 nium-235.

7 (c) STUDY OF ACTIONS TO ADDRESS TERRORIST  
8 THREAT TO NUCLEAR POWER PLANTS OUTSIDE THE  
9 UNITED STATES.—(1) The Secretary of Energy shall, in  
10 consultation with the Nuclear Regulatory Commission and  
11 the International Atomic Energy Agency, conduct a study  
12 of the feasibility and advisability of various actions to re-  
13 duce the risks associated with terrorist attacks on nuclear  
14 power plants outside the United States.

15 (2) Not later than nine months after the date of the  
16 enactment of this Act, the Secretary shall submit to Con-  
17 gress a report on the results of the study under paragraph  
18 (1). The report shall include the following:

19 (A) A description of the actions studied.

20 (B) An assessment of the feasibility and advis-  
21 ability of undertaking one or more such actions.

22 (C) Any other matters, including recommenda-  
23 tions, that the Secretary considers appropriate.

24 (d) AMENDMENT OF CONVENTION ON PHYSICAL  
25 PROTECTION OF NUCLEAR MATERIAL.—(1) It is the

1 sense of Congress that the President should encourage  
2 amendment of the Convention on the Physical Protection  
3 of Nuclear Materials in order to provide that the Conven-  
4 tion shall—

5 (A) apply to both the domestic and inter-  
6 national use and transport of nuclear materials;

7 (B) incorporate fundamental practices for the  
8 physical protection of such materials; and

9 (C) address protection against sabotage involv-  
10 ing nuclear materials.

11 (2) In this subsection, the term “Convention on the  
12 Physical Protection of Nuclear Materials” means the Con-  
13 vention on the Physical Protection of Nuclear Materials,  
14 With Annex, done at Vienna on October 26, 1979.

15 **SEC. 3153. REPEAL OF REQUIREMENT FOR REPORTS ON**  
16 **OBLIGATION OF FUNDS FOR PROGRAMS ON**  
17 **FISSILE MATERIALS IN RUSSIA.**

18 Section 3131 of the National Defense Authorization  
19 Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat.  
20 617; 22 U.S.C. 5952 note) is amended—

21 (1) in subsection (a), by striking “(a) AUTHOR-  
22 ITY.—”; and

23 (2) by striking subsection (b).



1 **SEC. 3154. EXPANSION OF ANNUAL REPORTS ON STATUS OF**  
2 **NUCLEAR MATERIALS PROTECTION, CON-**  
3 **TROL, AND ACCOUNTING PROGRAMS.**

4 (a) COVERED PROGRAMS.—Subsection (a) of section  
5 3171 of the Floyd D. Spence National Defense Authoriza-  
6 tion Act for Fiscal Year 2001 (as enacted into law by Pub-  
7 lic Law 106–398; 114 Stat. 1654A–475) is amended by  
8 striking “Russia that” and inserting “countries where  
9 such materials”.

10 (b) REPORT CONTENTS.—Subsection (b) of that sec-  
11 tion is amended—

12 (1) in paragraph (1) by inserting “in each  
13 country covered by subsection (a)” after “loca-  
14 tions,”;

15 (2) in paragraph (2), by striking “in Russia”  
16 and inserting “in each such country”;

17 (3) in paragraph (3), by inserting “in each such  
18 country” after “subsection (a)”; and

19 (4) in paragraph (5), by striking “by total  
20 amount and by amount per fiscal year” and insert-  
21 ing “by total amount per country and by amount per  
22 fiscal year per country”.

## 1                   **Subtitle E—Other Matters**

### 2   **SEC. 3161. INDEMNIFICATION OF DEPARTMENT OF ENERGY**

#### 3                   **CONTRACTORS.**

4           Section 170d.(1)(A) of the Atomic Energy Act of  
5 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking  
6 “until August 1, 2002,” and inserting “until August 1,  
7 2012”.

### 8   **SEC. 3162. WORKER HEALTH AND SAFETY RULES FOR DE-**

#### 9                   **PARTMENT OF ENERGY FACILITIES.**

10          The Atomic Energy Act of 1954 is amended by in-  
11 serring after section 234B (42 U.S.C. 2282b) the fol-  
12 lowing:

#### 13   **“SEC. 234C. WORKER HEALTH AND SAFETY RULES FOR DE-**

#### 14                   **PARTMENT OF ENERGY NUCLEAR FACILI-**

#### 15                   **TIES.**

16          “(a) PERSONS SUBJECT TO PENALTY.—

17               “(1) CIVIL PENALTY.—

18                   “(A) IN GENERAL.—A person (or any sub-  
19 contractor or supplier of the person) who has  
20 entered into an agreement of indemnification  
21 under section 2210(d) (or any subcontractor or  
22 supplier of the person) that violates (or is the  
23 employer of a person that violates) Department  
24 of Energy Order No. 440.1A (1998), or any  
25 rule or regulation relating to industrial or con-

1           struction health and safety promulgated by the  
2           Secretary of Energy (referred to in this section  
3           as the “Secretary”) after public notice and op-  
4           portunity for comment under section 553 of  
5           title 5, United States Code (commonly known  
6           as the ‘Administrative Procedure Act’), shall be  
7           subject to a civil penalty of not more than  
8           \$100,000 for each such violation.

9           “(B) CONTINUING VIOLATIONS.—If any  
10          violation under this subsection is a continuing  
11          violation, each day of the violation shall con-  
12          stitute a separate violation for the purpose of  
13          computing the civil penalty under subparagraph  
14          (A).

15          “(2) REGULATIONS.—

16          “(A) IN GENERAL.—Not later than 270  
17          days after the date of enactment of this section,  
18          the Secretary shall promulgate regulations for  
19          industrial and construction health and safety  
20          that incorporate the provisions and require-  
21          ments contained in Department of Energy  
22          Order No. 440.1A (1998).

23          “(B) EFFECTIVE DATE.—The regulations  
24          promulgated under subparagraph (A) shall take

1 effect on the date that is 1 year after the pro-  
2 mulgation date of the regulations.

3 “(3) VARIANCES OR EXEMPTIONS.—

4 “(A) IN GENERAL.—The Secretary may  
5 provide in the regulations promulgated under  
6 paragraph (2) a procedure for granting  
7 variances or exemptions to the extent necessary  
8 to avoid serious impairment of the national se-  
9 curity of the United States.

10 “(B) DETERMINATION.—In determining  
11 whether to provide a variance or exemption  
12 under subparagraph (A), the Secretary of En-  
13 ergy shall assess—

14 “(i) the impact on national security of  
15 not providing a variance or exemption; and

16 “(ii) the benefits or detriments to  
17 worker health and safety of providing a  
18 variance or exemption.

19 “(C) PROCEDURE.—Before granting a  
20 variance or exemption, the Secretary of Energy  
21 shall—

22 “(i) notify affected employees;

23 “(ii) provide an opportunity for a  
24 hearing on the record; and

1                   “(iii) notify Congress of any deter-  
2                   mination to grant a variance at least 60  
3                   days before the proposed effective date of  
4                   the variance or exemption.

5                   “(4) APPLICABILITY.—This subsection does not  
6                   apply to any facility that is a component of, or any  
7                   activity conducted under, the Naval Nuclear Propul-  
8                   sion Program.

9                   “(5) ENFORCEMENT GUIDANCE ON STRUC-  
10                  TURES TO BE DISPOSED OF.—

11                  “(A) IN GENERAL.—In enforcing the regu-  
12                  lations under paragraph (2), the Secretary of  
13                  Energy shall, on a case-by-case basis, evaluate  
14                  whether a building, facility, structure, or im-  
15                  provement of the Department of Energy that is  
16                  permanently closed and that is expected to be  
17                  demolished, or title to which is expected to be  
18                  transferred to another entity for reuse, should  
19                  undergo major retrofitting to comply with spe-  
20                  cific general industry standards.

21                  “(B) NO EFFECT ON HEALTH AND SAFETY  
22                  ENFORCEMENT.—This subsection does not di-  
23                  minish or otherwise affect—

24                  “(i) the enforcement of any worker  
25                  health and safety regulations under this

1 section with respect to the surveillance and  
2 maintenance or decontamination, decom-  
3 missioning, or demolition of buildings, fa-  
4 cilities, structures, or improvements; or

5 “(ii) the application of any other law  
6 (including regulations), order, or contrac-  
7 tual obligation.

8 “(b) CONTRACT PENALTIES.—

9 “(1) IN GENERAL.—The Secretary shall include  
10 in each contract with a contractor of the Depart-  
11 ment provisions that provide an appropriate reduc-  
12 tion in the fees or amounts paid to the contractor  
13 under the contract in the event of a violation by the  
14 contractor or contractor employee of any regulation  
15 or order relating to industrial or construction health  
16 and safety.

17 “(2) CONTENTS.—The provisions shall specify  
18 various degrees of violations and the amount of the  
19 reduction attributable to each degree of violation.

20 “(c) POWERS AND LIMITATIONS.—The powers and  
21 limitations applicable to the assessment of civil penalties  
22 under section 234A, except for subsection (d) of that sec-  
23 tion, shall apply to the assessment of civil penalties under  
24 this section.

1       “(d) TOTAL AMOUNT OF PENALTIES.—In the case  
2 of an entity described in subsection (d) of section 234A,  
3 the total amount of civil penalties under subsection (a)  
4 or under subsection (a) of section 234B in a fiscal year  
5 may not exceed the total amount of fees paid by the De-  
6 partment of Energy to that entity in that fiscal year.”.

7 **SEC. 3163. ONE-YEAR EXTENSION OF AUTHORITY OF DE-**  
8                                   **PARTMENT OF ENERGY TO PAY VOLUNTARY**  
9                                   **SEPARATION INCENTIVE PAYMENTS.**

10       (a) IN GENERAL.—Section 3161(a) of the National  
11 Defense Authorization Act for Fiscal Year 2000 (Public  
12 Law 106–65; 5 U.S.C. 5597 note) is amended by striking  
13 “January 1, 2004” and inserting “January 1, 2005”.

14       (b) CONSTRUCTION.—The amendment made by sub-  
15 section (a) may be superseded by another provision of law  
16 that takes effect after the date of the enactment of this  
17 Act, and before January 1, 2004, establishing a uniform  
18 system for providing voluntary separation incentives (in-  
19 cluding a system for requiring approval of plans by the  
20 Office of Management and Budget) for employees of the  
21 Federal Government.

1 **SEC. 3164. SUPPORT FOR PUBLIC EDUCATION IN THE VI-**  
2 **CINITY OF LOS ALAMOS NATIONAL LABORA-**  
3 **TORY, NEW MEXICO.**

4 (a) **SUPPORT FOR FISCAL YEAR 2003.**—From  
5 amounts authorized to be appropriated to the Secretary  
6 of Energy by this title, \$6,900,000 shall be available for  
7 payment by the Secretary for fiscal year 2003 to the Los  
8 Alamos National Laboratory Foundation, a not-for-profit  
9 foundation chartered in accordance with section 3167(a)  
10 of the National Defense Authorization Act for Fiscal Year  
11 1998 (Public Law 105–85; 111 Stat. 2052).

12 (b) **USE OF FUNDS.**—The foundation referred to in  
13 subsection (a) shall—

14 (1) utilize funds provided under this section as  
15 a contribution to the endowment fund for the foun-  
16 dation; and

17 (2) use the income generated from investments  
18 in the endowment fund that are attributable to the  
19 payment made under this section to fund programs  
20 to support the educational needs of children in the  
21 public schools in the vicinity of Los Alamos National  
22 Laboratory, New Mexico.

23 (c) **REPEAL OF SUPERSEDED AUTHORITY AND**  
24 **MODIFICATION OF AUTHORITY TO EXTEND CONTRACT.**—

25 (1) Subsection (b) of section 3136 of the National Defense



1 Authorization Act for Fiscal Year 2002 (Public Law 107–  
2 107; 115 Stat. 1368) is amended to read as follows:

3 “(b) SUPPORT FOR FISCAL YEARS 2003 THROUGH  
4 2013.—Subject to the availability of appropriations, the  
5 Secretary may provide for a contract extension through  
6 fiscal year 2013 similar to the contract extension referred  
7 to in subsection (a)(2).”.

8 (2) The amendment made by paragraph (1) shall  
9 take effect on October 1, 2002.

10 **Subtitle F—Disposition of Weap-**  
11 **ons-Usable Plutonium at Savan-**  
12 **nah River, South Carolina**

13 **SEC. 3181. FINDINGS.**

14 Congress makes the following findings:

15 (1) In September 2000, the United States and  
16 the Russian Federation signed a Plutonium Manage-  
17 ment and Disposition Agreement by which each  
18 agreed to dispose of 34 metric tons of weapons-  
19 grade plutonium.

20 (2) The agreement with Russia is a significant  
21 step toward safeguarding nuclear materials and pre-  
22 venting their diversion to rogue states and terrorists.

23 (3) The Department of Energy plans to dispose  
24 of 34 metric tons of weapons-grade plutonium in the  
25 United States before the end of 2019 by converting

1 the plutonium to a mixed-oxide fuel to be used in  
2 commercial nuclear power reactors.

3 (4) The Department has formulated a plan for  
4 implementing the agreement with Russia through  
5 construction of a mixed-oxide fuel fabrication facil-  
6 ity, the so-called MOX facility, and a pit disassembly  
7 and conversion facility at the Savannah River Site,  
8 Aiken, South Carolina.

9 (5) The United States and the State of South  
10 Carolina have a compelling interest in the safe,  
11 proper, and efficient operation of the plutonium dis-  
12 position facilities at the Savannah River Site. The  
13 MOX facility will also be economically beneficial to  
14 the State of South Carolina, and that economic ben-  
15 efit will not be fully realized unless the MOX facility  
16 is built.

17 (6) The State of South Carolina desires to en-  
18 sure that all plutonium transferred to the State of  
19 South Carolina is stored safely; that the full benefits  
20 of the MOX facility are realized as soon as possible;  
21 and, specifically, that all defense plutonium or de-  
22 fense plutonium materials transferred to the Savan-  
23 nah River Site either be processed or be removed ex-  
24 peditiously.

1 **SEC. 3182. DISPOSITION OF WEAPONS-USABLE PLUTONIUM**  
2 **AT SAVANNAH RIVER SITE.**

3 (a) PLAN FOR CONSTRUCTION AND OPERATION OF  
4 MOX FACILITY.—(1) Not later than February 1, 2003,  
5 the Secretary of Energy shall submit to Congress a plan  
6 for the construction and operation of the MOX facility at  
7 the Savannah River Site, Aiken, South Carolina.

8 (2) The plan under paragraph (1) shall include—

9 (A) a schedule for construction and operations  
10 so as to achieve, as of January 1, 2009, and there-  
11 after, the MOX production objective, and to produce  
12 1 metric ton of mixed oxide fuel by December 31,  
13 2009; and

14 (B) a schedule of operations of the MOX facil-  
15 ity designed so that 34 metric tons of defense pluto-  
16 nium and defense plutonium materials at the Savan-  
17 nah River Site will be processed into mixed oxide  
18 fuel by January 1, 2019.

19 (3)(A) Not later than February 15 each year, begin-  
20 ning in 2004 and continuing for as long as the MOX facil-  
21 ity is in use, the Secretary shall submit to Congress a re-  
22 port on the implementation of the plan required by para-  
23 graph (1).

24 (B) Each report under subparagraph (A) for years  
25 before 2010 shall include—

1 (i) an assessment of compliance with the sched-  
2 ules included with the plan under paragraph (2);  
3 and

4 (ii) a certification by the Secretary whether or  
5 not the MOX production objective can be met by  
6 January 2009.

7 (C) Each report under subparagraph (A) for years  
8 after 2009 shall—

9 (i) address whether the MOX production objec-  
10 tive has been met; and

11 (ii) assess progress toward meeting the obliga-  
12 tions of the United States under the Plutonium  
13 Management and Disposition Agreement.

14 (D) For years after 2017, each report under subpara-  
15 graph (A) shall also include an assessment of compliance  
16 with the MOX production objective and, if not in compli-  
17 ance, the plan of the Secretary for achieving one of the  
18 following:

19 (i) Compliance with such objective.

20 (ii) Removal of all remaining defense plutonium  
21 and defense plutonium materials from the State of  
22 South Carolina.

23 (b) CORRECTIVE ACTIONS.—(1) If a report under  
24 subsection (a)(3) indicates that construction or operation  
25 of the MOX facility is behind the applicable schedule

1 under subsection (a)(2) by 12 months or more, the Sec-  
2 retary shall submit to Congress, not later than August 15  
3 of the year in which such report is submitted, a plan for  
4 corrective actions to be implemented by the Secretary to  
5 ensure that the MOX facility project is capable of meeting  
6 the MOX production objective by January 1, 2009.

7 (2) If a plan is submitted under paragraph (1) in any  
8 year after 2008, the plan shall include corrective actions  
9 to be implemented by the Secretary to ensure that the  
10 MOX production objective is met.

11 (3) Any plan for corrective actions under paragraph  
12 (1) or (2) shall include established milestones under such  
13 plan for achieving compliance with the MOX production  
14 objective.

15 (4) If, before January 1, 2009, the Secretary deter-  
16 mines that there is a substantial and material risk that  
17 the MOX production objective will not be achieved by  
18 2009 because of a failure to achieve milestones set forth  
19 in the most recent corrective action plan under this sub-  
20 section, the Secretary shall suspend further transfers of  
21 defense plutonium and defense plutonium materials to be  
22 processed by the MOX facility until such risk is addressed  
23 and the Secretary certifies that the MOX production ob-  
24 jective can be met by 2009.

1           (5) If, after January 1, 2009, the Secretary deter-  
2 mines that the MOX production objective has not been  
3 achieved because of a failure to achieve milestones set  
4 forth in the most recent corrective action plan under this  
5 subsection, the Secretary shall suspend further transfers  
6 of defense plutonium and defense plutonium materials to  
7 be processed by the MOX facility until the Secretary cer-  
8 tifies that the MOX production objective can be met by  
9 2009.

10          (6)(A) Upon making a determination under para-  
11 graph (4) or (5), the Secretary shall submit to Congress  
12 a report on the options for removing from the State of  
13 South Carolina an amount of defense plutonium or de-  
14 fense plutonium materials equal to the amount of defense  
15 plutonium or defense plutonium materials transferred to  
16 the State of South Carolina after April 15, 2002.

17          (B) Each report under subparagraph (A) shall in-  
18 clude an analysis of each option set forth in the report,  
19 including the cost and schedule for implementation of such  
20 option, and any requirements under the National Environ-  
21 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) relat-  
22 ing to consideration or selection of such option.

23          (C) Upon submittal of a report under paragraph (A),  
24 the Secretary shall commence any analysis that may be  
25 required under the National Environmental Policy Act of

1 1969 in order to select among the options set forth in the  
2 report.

3 (c) CONTINGENT REQUIREMENT FOR REMOVAL OF  
4 PLUTONIUM AND MATERIALS FROM SAVANNAH RIVER  
5 SITE.—If the MOX production objective is not achieved  
6 as of January 1, 2009, the Secretary shall, consistent with  
7 the National Environmental Policy Act of 1969 and other  
8 applicable laws, remove from the State of South Carolina,  
9 for storage or disposal elsewhere—

10 (1) not later than January 1, 2011, not less  
11 than 1 metric ton of defense plutonium or defense  
12 plutonium materials; and

13 (2) not later than January 1, 2017, an amount  
14 of defense plutonium or defense plutonium materials  
15 equal to the amount of defense plutonium or defense  
16 plutonium materials transferred to the Savannah  
17 River Site between April 15, 2002 and January 1,  
18 2017, but not processed by the MOX facility.

19 (d) ECONOMIC AND IMPACT ASSISTANCE.—(1) If the  
20 MOX production objective is not achieved as of January  
21 1, 2011, the Secretary shall pay to the State of South  
22 Carolina each year beginning on or after that date through  
23 2016 for economic and impact assistance an amount equal  
24 to \$1,000,000 per day until the later of—

25 (A) the passage of 100 days in such year;

1 (B) the MOX production objective is achieved  
2 in such year; or

3 (C) the Secretary has removed from the State  
4 of South Carolina in such year at least 1 metric ton  
5 of defense plutonium or defense plutonium mate-  
6 rials.

7 (2)(A) If the MOX production objective is not  
8 achieved as of January 1, 2017, the Secretary shall pay  
9 to the State of South Carolina each year beginning on or  
10 after that date through 2024 for economic and impact as-  
11 sistance an amount equal to \$1,000,000 per day until the  
12 later of—

13 (i) the passage of 100 days in such year;

14 (ii) the MOX production objective is achieved in  
15 such year; or

16 (iii) the Secretary has removed from the State  
17 of South Carolina an amount of defense plutonium  
18 or defense plutonium materials equal to the amount  
19 of defense plutonium or defense plutonium materials  
20 transferred to the Savannah River Site between  
21 April 15, 2002 and January 1, 2017, but not proc-  
22 essed by the MOX facility.

23 (B) Nothing in this paragraph may be construed to  
24 terminate, supersede, or otherwise affect any other re-  
25 quirements of this section.



1           (3) The Secretary shall make payments, if any, under  
2 this subsection, from amounts authorized to be appro-  
3 priated to the Department of Energy.

4           (4) If the State of South Carolina obtains an injunc-  
5 tion that prohibits the Department from taking any action  
6 necessary for the Department to meet any deadline speci-  
7 fied by this subsection, that deadline shall be extended for  
8 a period of time equal to the period of time during which  
9 the injunction is in effect.

10           (e) FAILURE TO COMPLETE PLANNED DISPOSITION  
11 PROGRAM.—If on July 1 each year beginning in 2020 and  
12 continuing for as long as the MOX facility is in use, less  
13 than 34 metric tons of defense plutonium or defense pluto-  
14 nium materials have been processed by the MOX facility,  
15 the Secretary shall submit to Congress a plan for—

16           (1) completing the processing of 34 metric tons  
17 of defense plutonium and defense plutonium mate-  
18 rial by the MOX facility; or

19           (2) removing from the State of South Carolina  
20 an amount of defense plutonium or defense pluto-  
21 nium materials equal to the amount of defense plu-  
22 tonium or defense plutonium materials transferred  
23 to the Savannah River Site after April 15, 2002, but  
24 not processed by the MOX facility.

1 (f) REMOVAL OF MIXED-OXIDE FUEL UPON COM-  
2 PLETION OF OPERATIONS OF MOX FACILITY.—If, one  
3 year after the date on which operation of the MOX facility  
4 permanently ceases any mixed-oxide fuel remains at the  
5 Savannah River Site, the Secretary shall submit to  
6 Congress—

7 (1) a report on when such fuel will be trans-  
8 ferred for use in commercial nuclear reactors; or

9 (2) a plan for removing such fuel from the  
10 State of South Carolina.

11 (g) DEFINITIONS.—In this section:

12 (1) MOX PRODUCTION OBJECTIVE.—The term  
13 “MOX production objective” means production at  
14 the MOX facility of mixed-oxide fuel from defense  
15 plutonium and defense plutonium materials at an  
16 average rate equivalent to not less than one metric  
17 ton of mixed-oxide fuel per year. The average rate  
18 shall be determined by measuring production at the  
19 MOX facility from the date the facility is declared  
20 operational to the Nuclear Regulatory Commission  
21 through the date of assessment.

22 (2) MOX FACILITY.—The term “MOX facility”  
23 means the mixed-oxide fuel fabrication facility at the  
24 Savannah River Site, Aiken, South Carolina.

1           (3) DEFENSE PLUTONIUM; DEFENSE PLUTO-  
2           NIUM MATERIALS.—The terms “defense-plutonium”  
3           and “defense plutonium materials” mean weapons-  
4           usable plutonium.

5   **SEC. 3183. STUDY OF FACILITIES FOR STORAGE OF PLUTO-**  
6                           **NIUM AND PLUTONIUM MATERIALS AT SA-**  
7                           **VANNAH RIVER SITE.**

8           (a) STUDY.—The Defense Nuclear Facilities Safety  
9   Board shall conduct a study of the adequacy of K-Area  
10   Materials Storage facility (KAMS), and related support  
11   facilities such as Building 235-F, at the Savannah River  
12   Site, Aiken, South Carolina, for the storage of defense plu-  
13   tonium and defense plutonium materials in connection  
14   with the disposition program provided in section 3182 and  
15   in connection with the amended Record of Decision of the  
16   Department of Energy for fissile materials disposition.

17           (b) REPORT.—Not later than one year after the date  
18   of enactment of this Act, the Defense Nuclear Facilities  
19   Safety Board shall submit to Congress and the Secretary  
20   of Energy a report on the study conducted under sub-  
21   section (a).

22           (c) REPORT ELEMENTS.—The report under sub-  
23   section (b) shall—

24           (1) address—

1 (A) the suitability of KAMS and related  
2 support facilities for monitoring and observing  
3 any defense plutonium or defense plutonium  
4 materials stored in KAMS;

5 (B) the adequacy of the provisions made  
6 by the Department for remote monitoring of  
7 such defense plutonium and defense plutonium  
8 materials by way of sensors and for handling of  
9 retrieval of such defense plutonium and defense  
10 plutonium materials; and

11 (C) the adequacy of KAMS should such  
12 defense plutonium and defense plutonium mate-  
13 rials continue to be stored at KAMS after  
14 2019; and

15 (2) include such recommendations as the De-  
16 fense Nuclear Facilities Safety Board considers ap-  
17 propriate to enhance the safety, reliability, and  
18 functionality of KAMS.

19 (d) REPORTS ON ACTIONS ON RECOMMENDA-  
20 TIONS.—Not later than 6 months after the date on which  
21 the report under subsection (b) is submitted to Congress,  
22 and every year thereafter, the Secretary and the Board  
23 shall each submit to Congress a report on the actions  
24 taken by the Secretary in response to the recommenda-  
25 tions, if any, included in the report.

1 **TITLE XXXII—DEFENSE NU-**  
2 **CLEAR FACILITIES SAFETY**  
3 **BOARD**

4 **SEC. 3201. AUTHORIZATION.**

5 There are authorized to be appropriated for fiscal  
6 year 2003, \$19,494,000 for the operation of the Defense  
7 Nuclear Facilities Safety Board under chapter 21 of the  
8 Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

9 **SEC. 3202. AUTHORIZATION OF APPROPRIATIONS FOR THE**  
10 **FORMERLY USED SITES REMEDIAL ACTION**  
11 **PROGRAM OF THE CORPS OF ENGINEERS.**

12 There is hereby authorized to be appropriated for fis-  
13 cal year 2003 for the Department of the Army,  
14 \$140,000,000 for the formerly used sites remedial action  
15 program of the Corps of Engineers.

**Calendar No. 373**

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 2517**

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**A BILL**

To authorize appropriations for fiscal year 2003 for  
defense activities of the Department of Energy,  
and for other purposes.

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MAY 15 (legislative day, MAY 9), 2002

Read twice and placed on the calendar